

CBS, Axelrod, and Rand broadcast and posted online reports on June 8, 2016 and June 9, 2016 (the “Reports”) and that those Reports constituted defamation and business disparagement of the Plaintiffs. As more fully explained in Defendants’ Answer, Special Exceptions, Verified Pleas, and Affirmative Defenses to Plaintiffs Original Petition, the Reports concerned an insurance scam targeted at families with military insurance.⁴

2. Defendants have timely filed this Notice of Removal within the period required by 28 U.S.C. §1446(b). *See* Exhibits A-3 and A-4;⁵ *see also Bd. Of Regents of Univ. of Tex. Sys. v. Nippon Tel. & Tel. Corp.*, 478 F.3d 274, 278 (5th Cir. 2007).

II.

3. Plaintiffs are residents and citizens of Texas. *See* Exhibit A-2, ¶¶3, 4. Plaintiff Clay Cockerell is a resident and citizen of Texas and Plaintiff Cockerell Dermatopathology, P.A. is a Texas professional association located in Dallas County, Texas of which Clay Cockerell is the only member. Both Plaintiffs, therefore, are Texas citizens. *Id.*

4. Defendant CBS Broadcasting, Inc., misidentified as CBS News, Inc. in the Petition, affirmatively states that it is a New York corporation with its principal place of business located in New York. CBS News, Inc., incorrectly named as a defendant in the Petition, is a Delaware Corporation with its principal place of business in New York. Defendant Jim Axelrod affirmatively states that he is a resident and citizen of the state of New Jersey. Defendant Emily Rand affirmatively states that she is a resident and citizen of the state of New York. Thus,

³ A true and correct copy of the Citation served on CBS News, Inc. is attached as Exhibit A-3.

⁴ A true and correct copy of Defendants’ Answer, Special Exceptions, Verified Pleas, and Affirmative Defenses to Plaintiffs Original Petition has been attached as Exhibit A-5. Exhibit A-2, Exhibit A-3, Exhibit A-4, and Exhibit A-5 constitute the entirety of the documents currently filed in the state court action.

⁵ Jim Axelrod and Emily Rand had not been served with the lawsuit at the time that they filed their Answer, Special Exceptions, Verified Pleas, and Affirmative Defenses, but have appeared, *see* Exhibit A-5, and are parties to this Notice of Removal.

complete diversity exists between the parties. This diversity between the parties existed both at the time of filing of the suit in the state court action below and it exists at the time of removal.

5. The amount in controversy exceeds \$75,000.00, excluding interest and costs. *See* 28 U.S.C §1332(a). Specifically, Plaintiffs have pled that they intend to seek monetary relief in excess of \$1,000,000.00 for actual damages, exemplary damages, reasonable and necessary attorneys' fees, and any other relief to which Plaintiffs are entitled. *See* Exhibit A-2, ¶2, p. 11.

6. Removal, therefore, is proper because the district court may exercise original jurisdiction over this action pursuant to 28 U.S.C. §1332(a). *See* 28 U.S.C. §1441; *see also Menendez v. Wal-Mart Stores, Inc.*, 364 Fed.Appx. 62, 65 (5th Cir. 2010). Venue is also proper in this district under 28 U.S.C. §1441(a) because the state court where the suit has been pending is located in this district.

III.

7. As demonstrated by this Notice of Removal, each Defendant, through their undersigned counsel, hereby expressly agrees with and consents to the removal. This unanimous consent by each and every Defendant is given with the intent to satisfy the statutory requirements of 28 U.S.C §1446(b)(2), and in satisfaction of any additional consent requirements imposed by the Court.

8. Copies of all process, pleadings, and other filings in the state court suit are attached hereto as required by 28 U.S.C. §1446(a). Defendants have also attached the following documents:

- a. Index of all documents filed in the state court action with the corresponding date of filing listed, a true and correct copy of which is attached as Exhibit A;

- b. Printout of Case Docket, a true and correct copy of which is attached as Exhibit A-1;
- c. Civil Cover Sheet, a true and correct copy of which is attached hereto; and,
- d. Supplemental Civil Cover Sheet for Cases Removed from State Court attached hereto.

9. By filing this Notice of Removal, written notice of the filing is being given by Defendants to the Plaintiffs and their counsel as is required by law. A copy of this Notice is also being filed with the Clerk of the court in which this cause was originally filed, a true and correct copy of which has been attached as Exhibit B.

WHEREFORE, Defendants pray that the above-styled action, now pending against them in the 193rd District Court of Dallas County, Texas, be removed therefrom to this Honorable Court.

Respectfully submitted,

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**ATTORNEYS FOR DEFENDANTS CBS
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RAND**

CERTIFICATE OF SERVICE

The above signed certifies that a true and correct copy of the foregoing was served on Counsel as shown below on the 13th day of July, 2017 to:

VIA CERTIFIED MAIL #9414 7266 9904 2041 8917 41

VIA ELECTRONIC MAIL

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